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REPORT
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RESTRICTING UNITED STATES ASSISTANCE TO PANAMA

DECEMBER 15, 1987.—Ordered to be printed

Mr. PELL, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S. 1614]

The Committee on Foreign Relations, to which was referred the bill (S. 1614) to restrict United States assistance to Panama, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

The primary purpose of S. 1614 is to restrict United States assistance to Panama pending certain major changes in the current policies of the Government of Panama.

SUMMARY OF MAJOR PROVISIONS

The bill contains the following major provisions:

Terminates all bilateral economic and military assistance to Government of Panama unless the President certifies that (1) progress has been made toward civilian control over the military; (2) an independent investigation into the allegations of illegal actions by members of the Panamanian Defense Forces (PDF), including its commander, is undertaken; (3) the conditions for free and fair elections have been established; and (4) all constitutional guarantees have been restored;

Suspends Panama's U.S. sugar quota unless freedom of the press and all other constitutional guarantees, including due process of law, are restored to the Panamanian people; and

Instructs the U.S. Trade Representative to reallocate the suspended sugar quota to other eligible countries after

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December 31, 1987, if full press freedoms and constitutional guarantees have not been lifted by that time.

BACKGROUND

A political crisis erupted 7 months ago in Panama following the publication of dramatic charges against Panama's top military commander Gen. Manuel Antonio Noriega by a former high ranking officer in the Panama Defense Forces (PDF). Allegations of illegal acts by Noriega and certain members of the PDF sparked widespread demonstrations and calls for Noriega to step aside.

Col. Roberto Diaz Herrera, who until his forced retirement on June 1 had been the chief of staff of the PDF, stated that he collaborated with General Noriega in engineering the outcome of the 1984 presidential elections; that he had evidence demonstrating that Noriega directed the 1985 slaying of a leading Noriega critic, Dr. Hugo Spadafora; that Noriega planned the 1981 death of Panama's leader, Gen. Omar Torrijos; that members of the PDF are involved in international drug trafficking, and in the illegal sale of visas to Cubans.

Protests continue despite government imposed restrictions

Panamanian authorities were temporarily able to halt public demonstrations by a board spectrum of Panamanian society, demanding that General Noriega and other implicated officials relinquish their duties pending an impartial investigation of the charges, with the imposition of an 18-day state of emergency decree in June. Principally led by members of the National Civil Crusade (Crusade)—a coalition of more than 100 business, professional and civic groups—demonstrations, general strikes and public calls, for the removal of Noriega and other implicated PDF members have persisted since the state of emergency was lifted on June 29.

Panamanian authorities have responded to criticism by various means including thousands of arrests and physical abuse of demonstrators, with reports of more than 1,000 Panamanians suffering serious injuries including blinding by birdshot. Public gatherings remain prohibited and opposition newspapers and other opposition media closed. Efforts have also been made by Panamanian authorities to intimidate Crusade leaders with the issuance of arrest warrants. Several people have died in connection with protests against the government.

This summer Lucia Newman, a reporter for the Cable News Network, was told by Panamanian officials to leave the country immediately or she would suffer "humiliation and physical abuse." She is one of two American journalists expelled from the country. On September 13, David Miller, a member of the American Embassy in Panama, was detained and held incommunicado for 8 hours, despite the fact that he had his diplomatic immunity with him and showed it to his captors. Ten American military personnel were detained, beaten, and held incommunicado overnight earlier this month. Most recently, on October 16, Panama expelled Col. Charles Stone, who headed the U.S. Embassy's military group until his retirement on July 31.

Noriega has also attempted to deflect criticism from himself and the PDF by charging that allegations against him are merely an effort by some in the United States to destabilize Panama and abandon the Panama Canal treaties. To this end, Panamanian authorities have orchestrated anti-American demonstrations against U.S. property and harassment of U.S. personnel. For example, on June 30, demonstrators threw paint and rocks at U.S. Embassy property causing damages totaling $106,000. Panamanian authorities subsequently compensated the United States for these damages.

Negative effects on the Panamanian economy

The 7-month long political crisis has had serious implications for the Panamanian economy—an economy largely driven by the services sector. The economy is currently experiencing negative rates of economic growth, and Panama's role as an international banking center has been called into question by recent instability. Estimates suggest that more than $1 billion in deposits have been withdrawn from banks in Panama.

U.S. response to crisis

On July 1, U.S. economic and military assistance to the Government of Panama were suspended following the Government orchestrated destruction of U.S. Embassy property. U.S. assistance to Panama currently remains frozen. In addition to suspending aid, the administration has also downgraded official contracts with General Noriega and the Panamanian Government.

The Senate has gone on record on three separate occasions this year, expressing concern over the situation in Panama. On March 1, 1987, the President certified that Panama had "fully cooperated" with U.S. antinarcotics efforts in the previous 12 months. On April 3, 1987, the Senate approved by voice vote a resolution of disapproval introducted by Senators Kerry and Helms, on the Panama drug certification.

On June 26, the Senate passed, 84–2, S. Res. 239 to express the sense of the Senate concerning support for respect for human rights and evolution to genuine democracy in Panama. Among other provisions, the resolution called on General Noriega to step aside as commander in chief of the Panamanian Defense Forces pending an investigation into the allegations about the PDF's involvement in assassination, election fraud, and drug trafficking.

Most recently the Senate adopted, by a unanimous vote of 97 yeas, an amendment offered by Senator Dodd on September 24 during Senate consideration of the Defense Department authorization bill. As a sense of the Senate, this amendment delineates the steps which Panamanian authorities should take within a 45-day period or face termination of United States assistance and removal of Panama's sugar quota. These steps include effective civilian control over the PDF; an independent investigation into the allegations of illegal acts by certain members of the PDF; a nonmilitary transitional government; and restoration of all constitutional guarantees. The House adopted a similar provision on October 19. Thus far, none of the conditions has been met.

Committee Action

S. 1614 was introduced on August 6, 1987. The cosponsors are Senators D'Amato, Helms, Cranston, Kerry, Durenberger, Murkowski, Symms, DeConcini, Kennedy, McCain, Wilson, Warner, Garn, Armstrong, Moynihan, Pressler, Trible, and Graham. On October 22, the Foreign Relations Committee held a hearing on the legislation and received testimony from Senators Kennedy and D'Amato, Ambassador William Jorden, former U.S. Ambassador to Panama; Dr. Robert Cook-Deegan, National Advisory Committee of Physicians for Human Rights; and Col. Charles B. Stone (Ret.), Former Head of U.S. Military Assistance Advisory Group to Panama.

On November 19, 1987 the committee marked up and reported favorably S. 1614, with an amendment in the nature of a substitute, by a vote of 19–0 with Senators Pell, Biden, Sarbanes, Cranston, Dodd, Kerry, Simon, Sanford, Adams, Moynihan, Helms, Lugar, Kassebaum, Boschwitz, Pressler, Murkowski, Trible, Evans, and McConnell voting in favor.

Committee Comments

The committee in taking action on S. 1614 expressed grave concern about the current political situation in Panama. In particular, actions by the Government of Panama which have denied the people of Panama their constitutionally guaranteed rights including freedom of speech, press, assembly, and due process of law are reprehensible and should be reversed immediately. Excessive violence by the Panamanian Defense Forces (PDF) against attempted demonstrations by a wide segment of the population of Panama in an effort to express their opposition to government policies must cease immediately. Such behavior is not consistent with the desire for the restoration of normal relations with the Government of the United States.

The committee applauds the decision by the executive branch to suspend economic and military assistance to the Government of Panama as a strong signal of United States concern about the current situation. In addition, the committee is pleased to note that in light of the current situation, the Department of Defense has indefinitely postponed plans for the conducting of United States/Panamanian joint military exercises "Kindle Liberty," which were to have taken place in January 1988. The committee believes to have done otherwise would have sent the wrong signal to General Noriega at a time when all agencies of the U.S. Government should be speaking with "one voice." The committee expects to be consulted prior to any decision to hold such exercises in the future.

The committee believes that unless General Noriega and Panamanian authorities are prepared to meet the conditions specified in this legislation as a clear signal of their intention to permit the conditions for the election of a democratically elected civilian government, restore basic constitutional guarantees and subordinate the military to civilian authority, continued economic and military assistance to the Government of Panama is not in the foreign policy or national security interests of the United States.

Finally, the committee reiterates that the 1977 Panama Canal treaties, including the amendments, reservations, conditions and

declarations contained in the instruments of ratification, are the law of the land, and this legislation has no effect on these treaties.

Section-by-Section Analysis

Section 1.—Restrictions regarding Panama

Section 1(a)—Restrictions on assistance prohibits the furnishing of U.S. assistance to the Government of Panama unless the President certifies to Congress that (1) the Government of Panama has made substantial progress in asserting civilian control over the PDF and that the PDF is acting in an apolitical professional manner; (2) freedom of the press and other constitutional guarantees have been restored; (3) governing authorities and representatives of the opposition agree that conditions exist for free and fair elections; and (4) the Government of Panama is conducting an impartial investigation into allegations of illegal actions by General Noriega and other high ranking members of the PDF.

Section 1(b)—Policy on levels of future assistance expresses the sense of the Congress that if conditions in section 1(a) have been met by the Panamanian Government, then the United States would not only restore economic and military assistance to Panama, but would consider providing higher levels of such assistance.

Section 1(c)—Elimination of sugar quota allocation of Panama suspends the United States sugar quota allocated to Pamama each quota year beginning with the date of enactment. It makes conforming amendments to the tariff schedule to accomplish that suspension. It also authorizes the United States Trade Representative to reallocate Panama's quota to other eligible countries just before the end of each quota year, unless the President certifies that constitutional guarantees have been restored for that quota year. If the President so certifies, then the suspension on Panama's quota is to be lifted.

Sec. 2.—Definition

Section 2 defines "United States assistance" as assistance provided in the form of a grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to the Government of Panama.

In addition, section 2 exempts certain kinds of assistance from the prohibition requirement as follows: Assistance provided under Chapter 1 of the Foreign Assistance Act of 1961, if such assistance is channeled through private and voluntary organizations or other nongovernmental agencies; assistance involving donations of food or medicine; disaster relief assistance; assistance for refugees; assistance by the Inter-American Foundation; or assistance necessary for the continued financing of education for Panamanians in the United States, except that this does not include assistance for the training of any additional Panamanian military personnel under provisions of Part 2, Chapter 5 of the Foreign Assistance Act of 1961.

Cost Estimate

In accordance with rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the committee provides the following estimates of the cost of S. 1614, prepared by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, DC, December 1, 1987.

Hon. Claiborne Pell,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 1614, to restrict United States assistance for Panama, as ordered reported by the Senate Committee on Foreign Relations on November 19, 1987.

This bill prohibits the United States from providing Panama with certain military and economic foreign aid unless the President certifies to Congress that various constitutional reforms are taking place within Panama. This prohibition covers aid derived from fiscal year 1987 unobligated balances, and aid to be provided in fiscal year 1988 and all subsequent fiscal years.

This bill does not prohibit the reprogramming of funds between countries. Assuming any aid withheld from Panama would be subsequently reprogrammed, enactment of this legislation is not expected to have a budgetary impact.

With best wishes.

Sincerely,

James Bluno,
(For Edward M. Gramlich, Acting Director).

Evaluation of Regulatory Impact

In accordance with Rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the committee has concluded that there is no regulatory impact from S. 1614.

Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1987)

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PART 10—SUGAR; COCOA; CONFECTIONERY

SUBPART A—SUGARS, SIRUPS, AND MOLASSES

Subpart A headnotes:

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(ii) the total amount of specialty sugars permitted to be imported under paragraphs (a) and (b) of this headnote shall be allocated by providing each of the following countries an annual quota of 80 short tons, raw value, for the importation of specialty sugars:

Belgium; Burma; Cameroon; China, People's Republic of; Denmark; France; Germany, Federal Republic of; Hong Kong; Indonesia; Ireland; Italy; Japan; Kenya; Luxembourg; Netherlands; Netherlands Antilles; South Korea; Surinam; Sweden; Switzerland; United Kingdom; Venezuela; and Yemen.

(iii) Notwithstanding any authority given to the United States Trade Representative under paragraphs (e) and (g) of this headnote, no allocation may be made to Panama of any portion of any limitation imposed under any paragraph of this headnote on the quantity of sugars, sirups, and molasses described in items 155.20 and 155.30 which may be entered.

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